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**From:** Adams, Glenn [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C79E328CD4484265B012DFA81663F5E7-ADAMS, GLENN]  
**Sent:** 10/29/2021 2:13:40 PM  
**To:** Ramon Torres (Torres.Ramon@epa.gov) [Torres.Ramon@epa.gov]; Amoroso, Cathy [Amoroso.Cathy@epa.gov]; Randall Chaffins [Chaffins.Randall@epa.gov]  
**Subject:** some excerpts from the Wheeler decision

Ramon,

We got the question of where the idea came from that we did not have to follow CWA guidance outside of just not using the default fish consumption rate. Below are some excerpts from the Wheeler decision that provide the answer to that question.

Glenn

This decision applies only to the regulations themselves, not to any implementing guidance documents.<sup>2</sup>

<sup>2</sup> 40 C.F.R. § 300.430(f)(1)(i)(A) (compliance with ARARs “are threshold requirements that each alternative must meet in order to be eligible for selection”). Guidance cannot be considered binding applicable or relevant and appropriate requirements.

EPA will not require use of default exposure assumptions from CWA guidance documents regarding fish consumption to develop PRGs

also have determined that the disputed default exposure assumptions, particularly those regarding fish consumption, in CWA guidance documents should not be used to develop PRGs for effluent limits for discharges from ORR landfills.

I have determined that the process for identifying the PRGs will not use default exposure assumptions from CWA guidance documents

will establish PRGs for effluent discharge limitations based on site-specific exposure information.

nothing precludes the EPA or the DOE from taking site-specific exposure and risk into account.

H. Glenn Adams, Chief  
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